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FISCAL IMPACT STATEMENT

LS 6704

BILL NUMBER: HB 1300

NOTE PREPARED: Jan 23, 2004

BILL AMENDED:

SUBJECT: Insanity Defense.

FIRST AUTHOR: Rep. Bottorff

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
☐ **DEDICATED**
☐ **FEDERAL**

IMPACT: State & Local

Summary of Legislation: This bill has the following provisions:

- A. It requires notice to be given to certain persons before a defendant who was found not responsible for a crime by reason of insanity and committed to a mental health facility: (1) is allowed outside the facility while not restrained and in custody; (2) is given a new security classification; (3) is transferred to another facility; or (4) is discharged.
- B. It requires notice to be given as soon as practicable after the committed individual escapes.
- C. It provides that a defendant who interposes a defense of insanity may not introduce evidence from a medical witness with whom the defendant cooperated unless: (1) the defendant cooperates with medical witnesses appointed by the court; or (2) the defendant shows by clear and convincing evidence that the defendant's failure to cooperate with medical witnesses appointed by the court was caused by the defendant's mental illness.

Effective Date: July 1, 2004.

Explanation of State Expenditures: (Revised) *Provision A and B* - The added costs associated with the notification requirements specified in this bill will depend on:

- the number of persons who are committed to a governmental facility for not being responsible for committing a crime by reason of insanity,
- the frequency with which these committed persons either change security classification, are transferred to other facilities, or are released without supervision,
- the method that the facility uses to transmit these notifications to the specified persons.

The method of transmission can include electronic mail, fax, or postal letter. Almost all prosecuting attorney offices have electronic mail and to the extent that any other individual who is included in the court order for

notification purposes also has electronic mail, the added costs to the facility will be minimal.

[Update] The Department of Mental Health reports that seven persons are currently in DMHA facilities on a “Not Guilty By Reason of Insanity” commitment. It is likely that DMHA will also receive three additional persons for this commitment in the near future.

Explanation of State Revenues:

Explanation of Local Expenditures: Any fiscal effects from *Provision C* are speculative. The costs to the counties will depend on whether the defendant is indigent.

- Defendants who are not indigent pay for their own medical experts to testify, and the court will pay for another medical expert so the court will have other counterbalancing testimony.
- If the court declares the defendant to be indigent, then the selection of medical experts will depend on local practice. Often, the court may present a list of available experts and allow the defendant to select one to examine the defendant. The court will often select another expert as well to get more than one perspective.

If the defendant does not cooperate with a court-appointed witness, the court may not allow the testimony of the defendant’s own medical expert. Since expert witnesses are generally paid by the hour, if the expert witness does not testify and the court is paying the expert’s fee, then the costs to the court will be reduced.

Explanation of Local Revenues:

State Agencies Affected: Division of Mental Health and Addiction.

Local Agencies Affected: Prosecuting Attorneys from counties where persons are committed.

Information Sources: Steve Johnson, Prosecuting Attorneys Council; Suzanne Clifford,

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